

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

TARRANCE WHITLOCK	§	
v.	§	CIVIL ACTION NO. 5:14cv94
WILLIAM STEPHENS, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
REGARDING THE INDIVIDUAL DEFENDANTS' MOTIONS TO DISMISS

The Plaintiff Tarrance Whitlock, an inmate of the Texas Department of Criminal Justice, Correctional Institutions Division proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged deprivations of his constitutional rights. This Court ordered the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges. Plaintiff sues TDCJ Director William Stephens, Warden Dawn Grounds, Access to Courts Administrator Vickie Barrow, Telford Unit law librarian Chequita Dunbar, Dr. Reginaldo Stanley, Telford Unit practice manager Cathy McPeak, Jamie Barker, and the TDCJ Health Services Division.

The Defendants Barrow, Dunbar, Grounds, and Stephens filed a motion to dismiss under Fed. R. Civ. P. 12(b)(1) and 12(b)(6). The Defendants Barker, McPeak, and Dr. Stanley filed a separate motion to dismiss, also citing Fed. R. Civ. P. 12(b)(1) and 12(b)(6). Plaintiff filed a motion for leave to amend his complaint, stating the motions to dismiss point out a serious but correctable defect which should be corrected. The Defendants filed a reply urging denial of Plaintiff's motion for leave to amend.

The Magistrate Judge issued a Report recommending the motions to dismiss be denied so as to allow Plaintiff to file his amended complaint. No objections were filed to this Report; accordingly, the parties are barred from *de novo* review by the district judge of the Magistrate Judge's proposed findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). It is accordingly

ORDERED the Report of the Magistrate Judge (docket no. 28) is ADOPTED as the opinion of the District Court. It is further

ORDERED the motions to dismiss filed by the Defendants Barrow, Dunbar, Grounds and Stephens (docket no. 19) and the Defendants Barker, McPeak, and Stanley (docket no. 20) are DENIED without prejudice. It is further

ORDERED the Plaintiff's motion for leave to file an amended complaint (docket no. 22) is GRANTED. The Plaintiff shall have until **October 23, 2015**, in which to file his amended complaint. Failure to do so may result in the dismissal of the lawsuit for failure to prosecute or to obey an order of the Court. The Defendants shall thereupon have until **November 23, 2015** in which to file such response as they may deem appropriate.

So ORDERED and SIGNED this 17th day of September, 2015.